

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

September 5, 2000

IN RE:)
)
TARIFF FILING BY BELL SOUTH) **DOCKET NO. 00-00001**
TELECOMMUNICATIONS, INC. TO REDUCE)
RATES FOR COMPLETE CHOICE AND)
COMPLETE CHOICE WITH AREA PLUS)

ORDER APPROVING TARIFF

This matter came before the Tennessee Regulatory Authority ("Authority") during a regularly scheduled Authority Conference held on March 14, 2000, for consideration of a tariff filing by BellSouth Telecommunications, Inc. ("BellSouth") to reduce rates to residential customers that subscribe to Complete Choice® and Complete Choice® with Area Plus® multi-line (two and three line) packages in Rate Group 5.¹ BellSouth filed Tariff No. 00-00001 (the "Tariff") January 3, 2000 with an effective date of January 28, 2000. At a regularly scheduled Authority Conference held on January 25, 2000, the Directors voted unanimously to suspend the Tariff for sixty (60) days through March 28, 2000, to allow the Authority additional time to obtain more information to evaluate the Tariff.

BellSouth's proposed Tariff reduces rates to residential subscribers of multi-line packages for Complete Choice and Complete Choice with Area Plus in Rate Group 5 only. At

¹ Rate Group 5 consists of the Nashville and Memphis metropolitan areas, which encompasses a local calling scope of over 300,000 access lines.

the time of the Tariff filing, all subscribers to such services paid the same price.² Pursuant to the Tariff, multi-line subscribers to Complete Choice in Rate Groups 1 through 4 would continue to pay \$52.50 for two lines and \$78.00 for three lines and subscribers to Complete Choice with Area Plus service in those Rate Groups would continue to pay \$86.50 for two lines and \$129.00 for three lines. The rates for residential subscribers to Complete Choice in Rate Group 5 would be reduced to \$42.50 for two lines and \$58.00 for three lines and rates for subscribers to Complete Choice with Area Plus service would be reduced to \$76.50 for two lines and \$114.00 for three lines. BellSouth stated that such reductions in Rate Group 5 were proposed in response to competition for subscribers to multi-line services by cable television providers. No interested persons sought intervention in this docket.

At the March 14, 2000 Authority Conference, the Directors made the following findings and conclusions based upon the information filed by BellSouth and the applicable law. Pursuant to Tenn. Code Ann. § 65-4-122, a public utility regulated by the Authority cannot charge consumers greater or less compensation for any service than it charges other consumers for service of a like kind under substantially like circumstances and conditions nor can a public utility make or give undue or unreasonable preferences to its consumers.³

² The monthly charges for customers obtaining local service with touchtone and other selected BellSouth custom calling features were \$27.00 for one (1) line, \$52.50 for two (2) lines and \$78.00 for three (3) lines. Additionally, customers subscribing to Area Plus® (LATA-wide) service paid \$44.00, \$86.50 and \$129.00 per month respectively.

³ Tenn. Code Ann. § 65-4-122 states in pertinent part:

(a) "If any common carrier or public service company, directly or indirectly, by any special rate, rebate, drawback, or other device, charges, demands, collects, or receives from any person a greater or less compensation for any service within this state than it charges, demands, collects, or receives from any other person for service of a like kind under substantially like circumstances and conditions, and if such common carrier or such other public service company makes any preference between the parties aforementioned such common carrier or other public service company commits unjust discrimination, which is prohibited and declared unlawful."

(c) "It is unlawful for any such corporation to make or give an undue or unreasonable preference or advantage to any particular person or locality, or any particular description of traffic of service, or to subject any particular person, company, firm, corporation, or locality, or any particular description of traffic or service to any undue or unreasonable prejudice or disadvantage."

Additionally, Tenn. Code Ann. § 65-5-204 prohibits a public utility from imposing unreasonable, unjustly discriminatory or unduly preferential rates for any services it supplies or renders within this state.⁴ BellSouth's Tariff reduces rates for consumers in Rate Group 5 only. Accordingly, the Authority applied the standards set forth in Tenn. Code Ann. §§ 65-4-122 and 65-5-204 to ascertain whether such a reduction rises to the level of "unjust discrimination or undue or unreasonable preferences." Under Tenn. Code Ann. § 65-4-122, "unjust discrimination" and "unreasonable or undue preferences" are prohibited. While circumstances may create a situation where some form of discrimination or preference exists, only where such discrimination rises to the level of unjust or the preference rises to the level of undue or unreasonable, is there a violation of Tenn. Code Ann. § 65-4-122.

On January 18, 2000, the Authority issued data requests asking BellSouth to explain its reasoning and rationale for the proposed Tariff. BellSouth filed its responses to these data requests on February 8, 2000. In its response, BellSouth included wireless and cable television company print media and website ads of services offered by the respective companies that compete for subscribers to second and third residential lines in the Nashville and Memphis metropolitan areas. BellSouth stated that competition for these subscribers is not currently present in Rate Groups 1, 2 and 3, and therefore, a reduction in rates in Rate Group 5 was necessary to meet competition.⁵

In its response to Authority data requests, BellSouth further reasoned that the practice of charging different rates for similar services in the five (5) Rate Groups is a pricing

⁴ Tenn. Code Ann. § 65-5-204 states in pertinent part:

(a) No public utility shall:

(1) Make, impose, or exact any unreasonable, unjustly discriminatory or unduly preferential individual or joint rate, or special rate, toll, fare, charge, or schedule for any product, or service supplied or rendered by it within this state.

⁵ BellSouth stated that it expects similar competition in Rate Group 4 and anticipates filing similar tariffs in the future in Rate Group 4.

philosophy long recognized by the former Tennessee Public Service Commission as well as the Authority. BellSouth maintained that this pricing philosophy does not violate Tenn. Code Ann. § 65-4-122, because there is no difference in the local flat service offerings in the various rate groups, but instead, rates vary due to the size of the local calling scope in those rate groups.

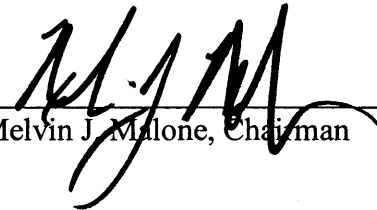
The Directors determined that reducing rates in Rate Group 5 did not violate Tenn. Code Ann. § 65-4-122 because rate discrimination under that section requires that the underlying services are “of a like kind under substantially like circumstances and conditions.” The subscribers in Rate Group 5 are not substantially similar to subscribers in the other rate groups because Rate Group 5 subscribers are presented with many more competitive alternatives for additional lines, such as those presented by cable television providers for access to the internet. As such, the presence of competitive alternatives for residential subscribers in Rate Group 5 constitutes a circumstance or condition that differentiates these subscribers from subscribers in other rate groups.

Additionally, the Directors found that subscribers in Rate Group 5 are not substantially similar to subscribers in the other rate groups because tariffed rate groups currently permit the charging of higher rates for larger local calling scopes. Thus, Rate Group 5 customers currently pay higher rates than those in other rate groups with lesser calling scopes. The presence of competitive alternatives and the difference in the size of the calling scope can be considered circumstances or conditions that differentiate customers. Therefore, the Directors determined that the proposed rate reductions do not rise to the level of unjust discrimination and so do not violate Tenn. Code Ann. §§ 65-4-122 and 65-5-204.

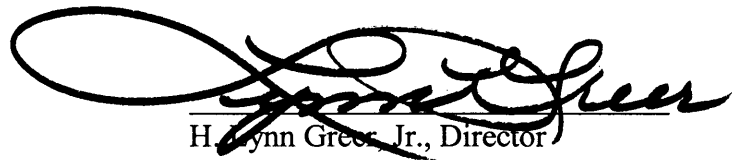
Based upon the foregoing, the Directors voted unanimously to approve the Tariff.

IT IS THEREFORE ORDERED THAT:

Tariff No. 00-00001 filed by BellSouth Telecommunications, Inc. is approved.



Melvin J. Malone, Chairman



H. Lynn Green, Jr., Director



Sara Kyle, Director

ATTEST:



K. David Waddell, Executive Secretary